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NETAPP, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.,

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.,

Defendant-Counterclaim Plaintiff.

Case No. C-07-06053 EDL

**DECLARATION OF JILL J. HO IN  
SUPPORT OF NETAPP'S RESPONSE  
TO SUN'S OPENING CLAIM  
CONSTRUCTION BRIEF**

1 I, Jill J. Ho, declare:

2 1. I am a member of the bar of this Court and an associate with the law firm  
3 of Weil, Gotshal & Manges LLP, counsel of record for the Plaintiff NetApp, Inc. ("NetApp"), in  
4 this case. If called upon as a witness, I could competently testify to the truth of each statement  
5 herein.

6 2. Attached as Exhibit A to this Declaration is a true and correct copy of U.S.  
7 Patent No. 5,819,292 (Hitz et al.), issued on Oct. 6, 1998.

8 3. Attached as Exhibit B to this Declaration is a true and correct copy of U.S.  
9 Patent No. 6,892,211 (Hitz et al.), issued on May 10, 2005.

10 4. Attached as Exhibit C to this Declaration is a true and correct copy of U.S.  
11 Patent No. 7,200,715 (Kleiman et al.), issued on Apr. 3, 2007.

12 5. Attached as Exhibit D to this Declaration is a true and correct copy of the  
13 Joint Claim Construction and Prehearing Statement, Exh. A, filed on May 24, 2008.

14 6. Attached as Exhibit E to this Declaration is a true and correct copy of the  
15 Supplemental Joint Claim Construction and Prehearing Statement, Revised Exh. A, filed on  
16 May 30, 2008.

17 7. Attached as Exhibit F to this Declaration are true and correct copies of  
18 excerpts from Sun's discovery requests in Civil Action No. C-07-06053-EDL:

- 19 ▪ Sun Microsystems, Inc.'s First Set of Interrogatories, dated Dec. 20, 2007
- 20 ▪ Sun Microsystems, Inc.'s Second Set of Interrogatories, dated Apr. 3, 2008
- 21 ▪ Sun Microsystems, Inc.'s First Set of Requests for Production of  
22 Documents, dated Dec. 20, 2007
- 23 ▪ Sun Microsystems, Inc.'s Second Set of Interrogatories, dated Feb. 19,  
24 2008
- 25 ▪ Sun Microsystems, Inc.'s Third Set of Requests for Production of  
26 Documents, dated Apr. 3, 2008
- 27 ▪ Sun Microsystems, Inc.'s Fourth Set of Requests for Production of  
28 Documents, dated Jun. 6, 2008

- Sun Microsystems, Inc.'s Fifth Set of Requests for Production of Documents, dated Jun. 20, 2008
- Sun Microsystems, Inc.'s Sixth Set of Requests for Production of Documents, dated Jun. 30, 2008

8. Attached as Exhibit G to this Declaration is a true and correct copy of the Joint Claim Construction and Prehearing Statement, Exh. B.

9. Attached as Exhibit H to this Declaration is a true and correct copy of the Supplemental Joint Claim Construction and Prehearing Statement, Revised Exh. D, filed on May 30, 2008.

10. Attached as Exhibit I to this Declaration is a true and correct copy of the NetApp, Inc.'s, Patent Local Rules 3-1 Disclosure of Asserted Claims and Preliminary Infringement Contentions for U.S. Patent No. 7,200,715, dated Jan. 22, 2008.

11. Attached as Exhibit J to this Declaration is a true and correct copy of the Office Action, dated May 17, 2005 from the Certified Patent Prosecution History of Appl. No. 10/105,034, which issued on Jan. 22, 2008 as U.S. Patent No. 7,200,715.

12. Attached as Exhibit K to this Declaration is a true and correct copy of the Notice of Allowability, dated Oct. 28, 2005 from the Certified Patent Prosecution History of Appl. No. 10/105,034, which issued on Jan. 22, 2008 as U.S. Patent No. 7,200,715.

13. Attached as Exhibit L to this Declaration is a true and correct copy of the Preliminary Amendment, dated Feb. 22, 2005 from the Certified Patent Prosecution History of Appl. No. 10/105,034, which issued on Jan. 22, 2008 as U.S. Patent No. 7,200,715

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Executed on July 21, 2008 at Redwood Shores, California.

  
Jill J. Ho